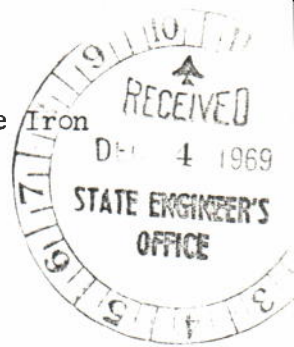


Transcription of a hearing held November 24, 1969 at 4:00 PM in the Iron County Courthouse in Parowan, Utah and concerning:

SUBDIVISION DEVELOPMENT ON PAROWAN WATER SHED



Gerald W. Stoker- "This meeting has been called by the State Engineer to review the facts and evidence with reference to water rights in the Princeton^{and} Ranger Flat area in Parowan Canyon. We had a previous hearing on this same matter approximately 4 weeks ago and additional time was requested by Mr. LeFevre to gather more information with reference to his defense. We would like to turn now to Mr. Hal S. Mitchell, who represents the Parowan Reservoir Company and any others who would like to speak in behalf of Parowan to go over this complaint again and restate their position."

"I am Harold S. Mitchell, President of the Parowan Reservoir Company. As president of the Parowan Reservoir Company and with full authority to speak for the Parowan South Field, West Field, North Field and also by organization of the Reservoir Company, the Parowan City. Historically, those who are represented by the Parowan Reservoir Company have claimed all the water that originates and drains from Parowan Canyon Drainage, whether it be on the surface or underground. These claims have been substantiated by the State Engineer and also by several court cases . May I quote from one such case which has become known as Greenwood Decree concerning the waters known as Parowan Center Creek."

Mr. Mitchell read decree - see file.

"This use has continued until the present time. We find that there are some persons who choose not to abide by the claims of the Parowan Water Users and have diverted at least one creek, Cabin Creek or Salt Pile Creek and have also diverted water from springs for the use of subdivision development. On Aug. 25, 1969, I, with a representative of the State Engineer's office made an inspection of the area and found that in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 1, T36S, R9W, there had been a diversion of cabin creek, also the NW $\frac{1}{4}$ SW $\frac{1}{4}$, same section, a pipeline had been

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installed and was conveying water to several parts of Cedar Breaks Homesites, a subdivision. All of this information and a detailed description of the inspection is in a letter dated Aug. 27, 1969, from the Cedar City Office. May I add for your information a map of the subdivision with the springs and water lines clearly marked. We have become very alarmed and are ready to take what legal steps are necessary to stop these illegal acts. We now ask the State Engineer with his powers to correct the situation immediately so that the water may be returned to the original channels and we also ask the State Engineer to watch very closely and prevent further encroachment on water rights that belong to the Parowan Reservoir Company, the Parowan Fields and Parowan City. Thank you."

Gerald Stoker- "Thank you Mr. Mitchell. Is there anything else that should be added to this? -- We would like to turn now to Mr. LeFevre or his representative for their statement."

These pictures were taken in the 1930s and 1940s

"I am Oliver D. LeFevre and I'm speaking in my own behalf for what interest I might have in Pine and Aspen, Scenic Lands. Those would be the only 2 that I have a direct ownership in that have to do with water that is affected. When we came into this country we bought this property from Ray Lyman and the pictures that I have here, maybe some of you might recognize them. They are on top of the hill where the stream runs over the hill. We didn't make this ditch. It was always there. I've had this in my folder for years (indicating the picture). Of course I realize this isn't way many years, this is only five or sixx years ago. We do have a filing in the State Engineer's office, and there is definite evidence and admission from even some of you, in our last meeting that they did use this water for the sawmill there. We do have a filing prior to 1903 that this water was used and thats all we can claim."

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Gerald Stoker- "Any further statements? Mr. Foster do you have something?"

Edward L. Foster- I have a letter from the State Engineers office that gives a description of the water that comes under the right that I purchased, signed by Rex A. Larsen, Area Engineer. I checked on the water rights after we bought the property up there, before in fact.

Gerald Stoker- "Would you like to make reference to that particular claim in this hearing?"

Mr. Foster- "Yes I would if you'd like to have it recorded. This is a letter that was sent in reply to one that I'd sent to them, my property description, including the water rights. 'Dear Mr. Foster: In answer to your letter concerning water rights in connection with your land purchase near Cedar Breaks in So. Utah. It appears from the description outlined in your letter that you would be the owner of 66 gpm from spring #1 as filed with the State Engineers office under Dil. Claim No. 1104, W.U.C. 75-462. It appears that you are also the owner of a total flow of 6.20 gpm from spring #2, Dil. Claim No. 1104, W.U.C. 75-983. These claims are filed in the name of Security Title Company 45 East 4th So., Salt Lake City, Utah. If this information does not agree with your understanding we would suggest that you contact the sellers of the property, Security Title Company. Yours truly, Rex A. Larsen, Area Engineer.'"

Gerald Stoker- "These are the claims that are submitted in the Proposed Determination of Water Rights for Parowan Valley. Are there any other statements you would like to have made of record?"

"I'm Morris Rasmussen, Parowan Councilman. This Prince^{AND}~~as~~ Ranger Area I'm

very familiar with. It used to be our old hunting ground and we used to camp in the old cabin thats just under the hill where this creek has been diverted and to my knowledge there has never been any water come out of that creek down by there. Roughly 6 years ago was the last time we hunted there and we had to dig the spring out in order to get culinary water for our camp. At that time Salt Pile Creek definitely was not coming down into Princeton ^{AND} Ranger Flat. Thats all I have."

Gerald Stoker- "Thank you"

Harold Mitchell- "In speaking to those who have owned the sawmill called the Mitchell Sawmill on Princeton ^{AND} Ranger Flat. It was there from 1925 to 1939 and Elmer Mitchell has offered to make an affidavit to the fact that Salt Pile Creek was not diverted for the mill use. However, there was water from the spring close at hand that was ponded over night and used to wash sawdust from the mill. Salt Pile Creek was not diverted for mill use."

Oliver LeFevre- "Back when we were first in there the water was running this way but it never did, when I say this way, I mean down towards the flat where the sawmill was, but it never did reach there until the last year or so. It was running into something there and disappearing. Since the last year or so, well just this last year its ran on down to the meadow and on over to that sawdust pile down below. It was running this way. There was water going both ways part of this time. I've noticed especially when it ran over the other direction these pictures I've taken of the creek when we first went in there, that was just there, we never dug it or anything. I don't know far enough back to go any further than that to my personal knowledge.

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"I'm Orville Isom, City Attorney of Parowan and I wish to make a statement for Parowan City. It is our claim and we join in the protest of Mr. Mitchell for the irrigation company. It is our claim that all the waters of the Parowan Creek and its tributaries have long since been established either adjudicated or diligence rights on the part of the irrigation company and the city that there is no water on the head waters of Parowan Creek that is open to use by any other persons, and the Parowan City along with the irrigation company claim all the waters and the head waters of Parowan Creek including the waters claimed by the claimant here.

Gerald Stoker- "We won't attempt to make a decision on the water rights at this time since they are being presented to the district court in connection with the adjudication for Parowan Valley. Mr. Mitchell you mentioned that you had an affidavit from Elmer Mitchell.

Mr. Mitchell- "He said he would be willing to make one. I just talked to him last night on the phone.

Mr. Foster- "Is this a private water company?

Mr. Mitchell- "No it's not private, its owned by the whole community, farmers and so on in the valley also Parowan city.

Mr. Foster- " It's a private company then. It isn't government.

Gerald Stoker- "Gentlemen, this information that we have on record at this time will be presented to the State Engineer. We certainly want to get all the facts in this hearing. We don't want to call any additional hearings with reference to this matter.

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Orville Isom- "May I ask a question of Mr. Lefevre and the gentleman? I'd like to know just what is the basis for their right.

Oliver LeFevre- " I think Mr. Foster already stated the numbers of the claims.

Mr. Isom- "What I'm getting at, is it claimed to be a diligence right extending prior to 1903?

Mr. LeFevre- "Well whatever is of record of filing. Its a matter of record.

Mr. Isom- "What is the use for?

Mr. LeFevre- "Whatever you see there.

Mr. Isom- "In other words the diligence claim that you filed in the Parowan Valley Adjudication is the basis for your right.

Mr. LeFevre- "We bought this property from someone else. It comes on from Thorp Waddingham, and Darrel Christensen and we claim only what we have from them.

Mr. Isom- "Is the diligence claim that you filed in this general adjudication proceedings the basis of your right?

Mr. LeFevre- "Well this is the basis of their right I'm sure.

Mr. Isom- "Thats all.

Mr. LeFevre- "What is the status, now Mr. Waddingham will be, he says he wasn't

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able to be here, he wanted that information brought forward. Now is there legally any way that he can bring that information forward for not being here, can he send it to the State Engineer's office?

Gerald Stoker- "What information is this?

Mr. LeFevre- "Well, he's the one thats supposed to be defending the water right. I just bought it from other people.

Gerald Stoker- "As I've stated before the water rights are a matter of record in the State Engineers office. They have been submitted in this proposed determination for Parowan Valley and until we have the pre trial and the answer to the protest on the Parowan Valley Adjudication we can't even begin to state what kind of a water right is represented here.

Mr. LeFevre- "Well, I think we would also be wanting to know what diversion of this creek would affect that right, if it would have an affect on it. What would be your information on it?

Gerald- "I don't think the diversion of Salt Pile Creek or Cabin Creek as its referred to would have any bearing on the rights that have been established in the Proposed Determination.

Mr. Mitchell- "The diversion is not even of record in the State Engineer's office.

Gerald- "Right. These rights refer to the springs, 3 springs located above and on Princeton ^{AND} Ranger Flat. These are the springs referred to in the diligence claim. Maybe for the information of those who are here, on our field examination

back in August we did find where someone had taken a catapiller tractor in there and had thrown a dam across this natural channel, diverting the water by cutting the channel across the hill. Now this is just the evidence that we found on the day that we made our field examination. What was there before I don't know that there is any physical evidence to the actual conditions.

Hearing concluded.

I N A T T E N D A N C E

GERALD W. STOKER
Lullie Iron
Olivier L. LeFevre
Edward L. Foster
Richard J. Harris
James L. Benson
Edward A. Burton
W. W. Chaffin
Ralph Burton
Orly S. Holupah
Harold S. Mitchell
Morris Rasmussen
Earl Bunn

DIV. OF WATER RIGHTS
City of Parowan
LeFevre Real Estate Co.
Recreational Dev.
Parowan City Council
Leg. Co. Parowan
Parowan City Council
Parowan West Field
Mayor - Parowan City
Hrs. ex Parowan
Parowan Res. Co.
Parowan City Council
" " "